

MARYLAND INSURANCE ADMINISTRATION*
200 ST. PAUL PLACE, SUITE 2700 *
BALTIMORE, MARYLAND 21202 *

BEFORE THE
INSURANCE COMMISSIONER

vs. *

KAISER FOUNDATION HEALTH PLAN OF *
THE MID-ATLANTIC STATES, INC. *
2101 EAST JEFFERSON STREET *
ROCKVILLE, MD 20852 *

INVESTIGATION NO:
MCLH-8-2015-I

NAIC# 95639 *

ORDER NO.: MIA-2015-10-035 *

RESCISSION OF ORDER

The Maryland Insurance Administration hereby rescinds the Order entered on
October 30, 2015.

SO ORDERED THIS 10th day of March, 2016.

ALFRED W. REDMER, JR.
INSURANCE COMMISSIONER

signature on original

By:


Victoria August
Associate Commissioner
Compliance & Enforcement

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ORDER

This Order is entered by the Maryland Insurance Administration ("the Administration") and the Insurance Commissioner for the State of Maryland ("the Commissioner") against Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc. ("Respondent") pursuant to the authority granted in §§ 2-108 and 2-204 of the Insurance Article, Md. Code Ann. (2011 Repl. Vol. & Supp.) ("Insurance Article"), as well as §§ 19-729 and 19-730 of the Health-General Article, Md. Code Ann. (2011 Repl. Vol. & Supp.) ("Health-General Article") and § 45 CFR 147.160.

I. Facts

(1) Respondent currently holds a Certificate of Authority from the Administration to act as a health maintenance organization in the State.

(2) The Respondent offers Qualified Health Plans ("QHP") through the Maryland Health Benefit Exchange.

(3) A survey was sent in August 2014 to the Respondent regarding compliance with the Mental Health Parity and Addiction Equity Act ("MHPAEA").¹ After receiving the survey response from the Respondent, the Administration opened

¹ See Federal Register, Volume 78, No. 219, published November 13, 2013

investigation MCLH-8-2015-I to gather the additional information necessary to determine compliance with the federal rule.

II. Findings

(4) The Respondent has 28 in-network licensed professional counselors for their entire service area which consists of all of Baltimore City, Anne Arundel, Baltimore, Carroll, Charles, Harford, Howard, Montgomery, and Prince George's Counties, and portions of Frederick and Calvert Counties. This represents a ratio of one provider to every 5,926.5 members or .02%, which is far below the ratio of other mental health provider types available within the Respondent's network. The Administration notes that § 45 CFR 156.230 provides network adequacy standards for all Qualified Health Plans offered by the Respondent. Section 45 CFR 156.230 provides in pertinent part:

(a) General requirement. A QHP issuer must ensure that the provider network of each of its QHPs, as available to all enrollees, meets the following standards—

(2) Maintains a network that is sufficient in number and types of providers, including providers that specialize in mental health and substance abuse services, to assure that all services will be accessible without unreasonable delay;

(5) In addition to all other relevant sections of the Insurance Article and the Health-General Article, the Administration relies on the following pertinent sections of federal and state insurance law:

(a) § 45 CFR 147.160 Parity in mental health and substance use disorder benefits.

(a) In general. The provisions of § 146.136 of this subchapter apply to health insurance coverage offered by health insurance issuer in the individual market in the same manner and to the same extent as such provisions apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the large group market.

(b) §19-730, Health-General Article, Annotated Code of Maryland.

(a) If any person violates any provision of § 19-729 of this subtitle, the Commissioner may:

(1) Issue an administrative order that requires the health maintenance organization to:

(i) Cease inappropriate conduct or practices by it or any of the personnel employed or associated with it;

(ii) Fulfill its contractual obligations;

(iii) Provide a service that has been denied improperly;

(iv) Take appropriate steps to restore its ability to provide a service that is provided under a contract;

(v) Cease the enrollment of any additional enrollees except newborn children or other newly acquired dependents of existing enrollees; or

(vi) Cease any advertising or solicitation;

II. Sanctions

(6) By the facts and violations stated above, Respondent's Certificate of Authority is subject to suspension or revocation, and/or the imposition of an administrative penalty and/or restitution.

(7) Failure to comply with the terms of this Order may subject Respondent to further legal and/or administrative action.

WHEREFORE, for the reasons set forth above, and subject to your right to request a hearing, it is this 30th day of October, 2015, **ORDERED** that:

A. The Respondent shall provide written documentation of compliance with §§ 45 CFR 156.230 within ninety (90) days of the effective date of this Order, concerning the network adequacy of professional counselors, by identifying the network adequacy numeric goal of in-network professional counselors set by Respondent, the process or rationale used to set the goal, and the progress of meeting the goal.

B. Respondent shall provide a written update to the Administration of the percentage of goal met in Paragraph A six (6) months from the effective date of this Order.

ALFRED W. REDMER, JR.
INSURANCE COMMISSIONER

signature on original

By: Victoria August
Associate Commissioner
Compliance & Enforcement